

STATE OF INDIANA)	IN THE MARION CIRCUIT COURT
)SS:	
COUNTY OF MARION)	CAUSE NO. 49C01-1404-PL-013037
NaTRINA DeBOW, in her official)	
Capacity as Clerk of the Indianapolis-)	
Marion County City-County Council)	
)	
Plaintiff,)	
)	
vs.)	
)	
THE CITY OF INDIANAPOLIS)	
OFFICE OF CORPORATION COUNSEL)	
)	
Defendants,)	

FILED

18 JUL 21 2014

Charles J. White
CLERK OF THE MARION CIRCUIT COURT

Preliminary Entry on Complaint and Motion to Compel

This matter came on for hearing on July 10, 2014. Appearing in behalf of Petitioner, Natrina DeBow, were Andrew Mallon and Fred Biesecker. Representing Respondent, City of Indianapolis Office of Corporation Counsel, were Beth A. Garrison and Andrew Seiwert.

Factual Background

On October 14, 2013 the City County Council by a unanimous vote adopted resolution 63, 2013 establishing the Regional Operations Center Investigating Committee (ROCIC). This committee was charged by the Council to investigate a lease entered into by the Regional Operations Center and to probe the accuracy of information provided by the Department of Public Safety to the Council in support of that lease. Section 4 of the resolution empowered ROCIC to subpoena witnesses and documents and directed the Clerk of the City County Council “to employ and pay such attorneys, investigators or other staff as selected by the committee as appropriate to ensure thorough investigation.”

On March 10, 2014, ROCIC by its Chairperson Joseph Simpson, issued a subpoena for various documents. Plaintiff alleges that the City failed to fully comply with the subpoena.

The Court takes judicial notice of article 3 of chapter 151 pertaining to committees and in particular section 133 concerning Investigating Committees, which provides as follows: “Investigating Committees of Council may be formed by a resolution of the Council for any lawful purpose. The resolution establishing the committee shall specify the membership of the committee, the general nature of its investigation and the power to subpoena witnesses, if the powers are granted.”

On April 14, 2014, Plaintiff alleges that the Council adopted a resolution proposed on April 10, which directed the Clerk of the Council to present to the Marion Circuit Court “a written report of the facts relating to the administration’s refusal to produce production of the documents identified in exhibit A hereto and all other appropriate relief.” This directive was issued “pursuant to Indiana Code section 36-3-4-24(d).” The instant lawsuit was filed eight (8) days later.

Discussion

This litigation is the culmination of a series of both formal and informal negotiations between the City and the Council concerning information, primarily documents, requested by the ROCIC. The Court notes that those efforts have not been fruitless. The City has provided much of the information informally requested and eventually subpoenaed by the Council. Nonetheless, in order for the Council to discharge its oversight obligations, a more expeditious and certain procedure for obtaining pertinent information must be put in place.

While the Court has attempted to limit its comments and orders to the specifically disputed documents, the Court recognizes that as the ROCIC investigation continues, new requests for information may be made. The following, general observations are intended to provide the parties with guidance and hopefully thereby prevent future disputes.

Legislative investigations are not bound by the Indiana Rules of Trial Procedure, but the Court will look to those Rules as instructive. For example, investigations by the legislative branch need not be limited to securing information which would be admissible in a Court of law or reasonably calculated to lead to the discovery of admissible evidence. On the other hand, requests must be relevant to the authorized purposes of the investigation.

The Court regards the following Trial Rules as especially suitable for adaptation in this case. Trial Rule 34 describes procedures and regulates Requests for Production. Trial Rule 26 (B)(1) second paragraph, and Trial Rule 26 (C) describe the grounds for a protective order. Trial Rule 26 (B)(5) describes the procedure for claiming a privilege to withhold requested documents. Trial Rule 26 (E) concerns when a discovery response must be supplemented. Trial Rule 26 (F) and 29 require efforts to resolve discovery disputes informally, as well as allowing the parties to stipulate to changes in discovery procedures.

ORDER

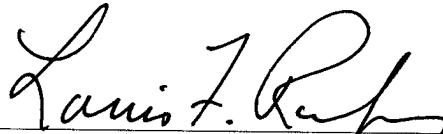
Having considered the parties' written submissions and oral argument, the Court now ORDERS as follows:

1. For purposes of this ORDER "client" shall mean an agency or persons whom the OCC is legally obliged to represent.
2. If the OCC knows or has reason to know that a requested document is in the possession of a client:
 - a. OCC shall request that a copy of the document be furnished both to the OCC and the Petitioner.
 - b. In the event that the client refuses or is unable to provide said document, OCC shall promptly notify Petitioner of the same.
3. In requesting documents, Petitioner will identify the same as specifically as she can, including any client which she knows or has reason to know may have actual possession of said documents and any keywords which may assist OCC in locating the documents.
4. With reference to items 5, 9, 14, and 16 of Petitioner's Reply to Respondent's Answer, Respondent is ordered to review its responses.
5. With reference to item 11 of the Reply, Respondent is ordered to provide any documents containing information on the cost of sites other than the former Eastgate Mall, whether expressed in dollars per square foot or otherwise.
6. With reference to item 12 of the Reply, Respondent is ordered to provide any documents relevant to the City's obligation to provide security in regard to the 2012 Super Bowl.
7. With reference to item 17, Respondent is ordered to provide all documents on the two SharePoint sites established by or for Valerie Washington. In the event that a document

is withheld on the grounds that it is privileged or protected, OCC shall comply with Trial Rule 26 (B)(5).

8. Respondent will review its response to items 19 and 20 of the Reply.
9. With reference to item 27 of the Reply, Respondents will provide documents e.g. invoices substantiating the expenditures previously provided.
10. With reference to documents requested on or about November 15, 2013, Petitioner will update its list of outstanding requests and will redraft them to conform with this Order. Respondent shall respond in writing.
11. The parties shall comply with the above Orders within fifteen (15) days of this Entry.
12. The Court sets this matter for a status hearing on the **11th** day of **August, 2014** at **1:30 p.m.**

July 21, 2014



HON. LOUIS F. ROSENBERG
JUDGE, MARION CIRCUIT COURT

DISTRIBUTION: Counsel of Record